



LAND USE SERVICES DEPARTMENT PLANNING COMMISSION STAFF REPORT



HEARING DATE: May 22, 2003

AGENDA ITEM NO: 3

Project Description

Applicant: Land Use Services Department
Proposal: Update the Housing Element of the County General Plan
Index: N/A
CATS: 00235CQ0
Community: Countywide
Location: Countywide
Staff: David Prusch

BACKGROUND:

The state legislature has given local government the responsibility to ensure that suitable housing is available to all of its residents, while considering both economic and fiscal factors as well as community goals set forth in the General Plan. The fundamental goal of the Housing Element is to promote the provision of a wide variety of housing opportunities to meet the needs of all economic segments of the community.

The current Housing Element was approved by the Board of Supervisors on December 14, 1993, and was certified by the State Department of Housing and Community Development (HCD) on December 30, 1993.

The Housing Element is one of seven state-mandated elements of a General Plan. State law specifically requires that the Housing Element be updated every five years. The state also requires the following issues to be identified and addressed when updating an existing Housing Element:

1. Assessment of existing housing needs and an inventory of resources and constraints
2. Quantified objectives for construction, rehabilitation and conservation of housing
3. A 5-year program of actions to achieve the goals and objectives of the element, through land use controls, regulatory incentives, financing/subsidy programs and housing set aside funds of a redevelopment agency
4. Constraints on Housing Development
5. Regional housing needs projected for all economic segments of society
6. Preservation of assisted housing units at risk of converting to non low-income housing.

Recommendations to the Board of Supervisors are not appealable.

APPROVAL PROCESS

The process to approve the Update to the Housing Element is as follows:

1. The Planning Commission makes a recommendation to the Board of Supervisors to adopt the Updated Housing Element.
2. The Board of Supervisors adopts the Updated Housing Element.
3. The adopted Updated Housing Element is then submitted to the State Department of Housing and Community Development for certification that the Element substantially complies with State law.

ISSUES ANALYSIS:

The state-mandated housing element topics identified above have all been addressed in the Housing Element Update. Some key issues related to the Housing Element that are very relevant to the Planning Commission are discussed in the following sections of the staff report:

Public Involvement

State law requires that the general public be provided the opportunity to be involved in amending the General Plan, as well as the Consolidated Plan for housing and community development programs.

In November 2000, public workshops were held at various locations throughout the County to obtain public input relative to the update to the Housing Element. In addition, the County Department of Economic and Community Development (ECD) conducts a Housing Needs Assessment each year as part of the update to the County Consolidated Plan. The Consolidated Plan is a required submittal to the U.S. Department of Housing and Urban Development (HUD) in order for the County to receive housing funds for the Home Investment Partnership Act (HOME) program.

The Planning Commission conducted a public workshop on the Update to the Housing Element at its meeting on April 24, 2003. The item is being brought back to the Planning Commission for consideration in a public hearing and for a formal recommendation to the Board of Supervisors concerning this Update to the Housing Element.

Regional Housing Needs Assessment (RHNA)

In order to plan to meet housing needs over a given time frame (i.e.: 2000 – 2005) each housing element must contain an assessment of existing and projected housing needs for all income levels. California State law prescribes a process for projecting statewide housing needs and determining how many new housing units should be planned for in each region of the state, and ultimately in each local jurisdiction, to meet the projected statewide need. This process is called the Regional Housing Needs Assessment (RHNA).

SCAG is the Metropolitan Planning Organization (MPO) responsible for the RHNA process in the Southern California region. In 1999, SCAG published a Draft RHNA allocating a total regional housing need of 504,768 units (assigned by HCD) to local jurisdictions throughout the region. In this Draft RHNA, the allocation to San Bernardino County was 43,668 units, meaning that 43,668 new housing units should be constructed in the unincorporated area of the County by 2005. The RHNA allocation is a planning target, not a production mandate. However, the allocation of 43,668 units was excessive and unacceptable, so the County filed an appeal according to procedures provided in the Draft RHNA. The County's RHNA appeal presented data, in conformance with the criteria specified in the Draft RHNA, to demonstrate that the new housing construction target of 43,668 units by 2005 allocated to the unincorporated area of San Bernardino County was unrealistic and inappropriate. The County's appeal was supported by documentary evidence and data that are a part of the administrative record of the Planning Commission's and the Board of Supervisors' action on the Update to the Housing Element. The evidence and main points of the appeal can be summarized as follows:

- There was insufficient market demand for new housing to warrant the Draft RHNA allocation. Despite the development-friendly environment in San Bernardino County, actual housing production had been less than 1,000 units per year for the last several years.
- The Draft RHNA did not recognize the high rates of residential vacancy in San Bernardino County, caused in part by military base closures. Idle electric meter data and HUD repossession listings were submitted as evidence of thousands of available vacant units.
- The Draft RHNA allocated a disproportionate share of the San Bernardino County construction target to the unincorporated area. When the Draft RHNA was prepared, less than 18% of the population of San Bernardino County lived in unincorporated areas, yet the Draft RHNA allocated almost half of the construction need to the unincorporated area. Approximately 51,000 units were distributed among the 24 cities in the County.
- The Draft RHNA ignored obvious constraints on providing infrastructure within the vast unincorporated area of San Bernardino County. The County's appeal pointed out how creating or extending services necessary to support 43,668 housing units would require long-term planning and implementation well beyond the RHNA horizon of 2005.
- The Draft RHNA unfairly concentrated allocations of low-income housing units in San Bernardino County and other Inland Empire jurisdictions. Govt. Code Sec. 65584 states that the RHNA "shall seek to reduce the concentration of lower income households in cities or counties that already have disproportionately high proportions of lower income households." The County's appeal demonstrated that San Bernardino County has a disproportionate share of low-income households and affordable housing relative to other areas in Southern California, such as Orange and Ventura Counties, and the Draft RHNA would increase that disparity, rather than reduce it.

The RHNA appeal process was lengthy and contentious. Finally, in November 2000, SCAG granted the appeals of the County and a few other jurisdictions and finalized the RHNA. The County's allocation was reduced to 16,211 units. Instead of adjusting other jurisdictions' RHNA allocations to maintain the regional total assigned by HCD, SCAG reduced the regional housing need by approximately 66,000 units and submitted the Final RHNA to HCD. In December 2000, HCD responded to SCAG, rejecting the Final RHNA and declaring that with a few minor exceptions, only those housing elements consistent with the 1999 Draft RHNA would be certified by HCD.

San Bernardino County, Riverside County and the cities of Moreno Valley and Chino Hills (Inland Empire Plaintiffs) filed lawsuits against HCD and SCAG over the RHNA process. The main point of the lawsuits, which were combined by the Court, was that the Final RHNA allocations approved by SCAG through the appeal process should be honored. The Court granted most of the Inland Empire Petitioners causes of action concerning resolution of the Final RHNA adopted by SCAG in 2000. Although the Court did not command that HCD accept the Final RHNA, it did enjoin HCD from refusing to certify housing elements of the Inland Empire Petitioners based on their use of the Final RHNA.

Housing Development Potential

The key factor in providing adequate housing is the availability of developable land. The Housing Element contains an analysis of available vacant land zoned for residential development. Within the unincorporated area of the County, single dwelling units are permitted uses within the Resource Conservation (RC), Agriculture (AG), Rural Living (RL), Single Residential (RS), Multiple Residential (RM), Rural Commercial (CR) and Planned Development (PD). Multiple dwelling units are allowed in the RM, CR and PD Land Use Districts subject to one of the following: Land Use Review (LUR), Department Review (DR), Conditional Use Permit (CUP) or Planned Development Review (PD). Currently, the unincorporated County has the development potential to accommodate up to 98,423 potential housing units (see Table A-2 on Page A-6). The Valley Region of the County, alone, could satisfy the entire RHNA of 16,211 housing units. The additional development potential in the desert, and to a far lesser extent, the mountains, provides more than enough developable land to meet the County's new housing requirements for the foreseeable future.

It should be noted that although the unincorporated area of the County contains ample vacant land suitable for residential development, there are many other factors to consider when projecting reasonable construction goals for a 5-year Housing Element planning period. (See RHNA Issue Analysis).

Constraints on Housing Development

One of the requirements of the Housing Element is to analyze and present plans or programs to reduce constraints on housing development, particularly governmental constraints such as cumbersome approval processes. The Draft Housing Element highlights numerous development incentives and streamlined processes designed to minimize governmental constraints. To facilitate and expedite the development of housing, the County has implemented an expedited process to approve multi-family housing, including mobilehome

parks. The DR process allows an applicant to go directly to each County department or non-County agency to obtain the specific conditions which will apply to their project. The Director of Land Use Services may approve the DR if an additional finding is made that the project complies with all applicable County development standards.

Additionally, housing development is facilitated through the fact that certain types of housing projects, in specific Land Use Districts, do not require planning approval. Within the RM Land Use District, duplexes and triplexes are a permitted land use, meaning that planning approval is not required. Developers need only to go through the building permit process prior to construction. Furthermore, if the number of multi-family units being constructed is between four and twenty, or if a mobilehome park of less than 50 units is being constructed in a RM District, the project may be eligible to utilize the DR application process if it is not controversial.

The County also offers a Housing Incentives Program (HIP), which is administered by Land Use Services. The HIP is used when an applicant voluntarily agrees to designate a fixed percentage of his rental or for-sale units as affordable for low-income persons, by capping the rental or sales price at no more than 30% of gross family income. In return, the developer is granted a 25% density bonus of living units above the Development Code Development Standards. The HIP application is submitted and processed in conjunction with either a CUP, PD, or DR application in order to request the density bonus.

In addition to the HIP, the County has other housing programs, the intent of which is to provide affordable housing throughout the County. These programs are identified in Section 6 of the Housing Element, and are funded primarily by HUD. HUD requires the County to submit a Consolidated Plan to detail the County's strategies and priority needs for its housing funds. This document is prepared by ECD once every five years, with annual updates.

So far during the 2000 – 2005 Housing Element Update period, various property repair and preservation programs administered by ECD have rehabilitated or preserved over 9,500 existing low-income housing units. Since 1994, the HOME program has disbursed approximately \$17.2 million in HOME loans to help finance 33 construction projects for new rental housing throughout the county. These projects have produced 1,377 rental units countywide, 389 of which have been restricted as rentals for low or very-low income families.

On Going Effects on the Housing Supply

In spite of the availability of land and these various programs which are incentives to developing housing, California, as a whole is not producing an adequate amount of housing for its growing population. Each year approximately 140,000 housing units are built statewide. Every year, that's 80,000 too few units, on a statewide basis. As a result, the cost of available new housing continues to escalate in price, often exceeding the range of affordability for many households, especially in coastal areas.

An important issue relative to the provision of affordable housing includes the potential negative impacts associated with "down zoning" of residentially designated property. Down zoning is the rezoning of a tract of land to less-dense or less intensive uses. An example of

down zoning would be when a property designated as RM is redesignated as RS or RL as a result of the County's General Plan Amendment (GPA) process. Other GPA's may change a residential Land Use District to a non-residential Land Use District, also reducing the potential to produce affordable housing.

Periodically, the County receives requests to down zone property through the GPA process. In order to approve such a GPA, State law requires that specific findings be made. In addition to the standard finding required to amend the General Plan, as specified in the Development Code, Section 65863(b) of the Government Code requires adoption of the following findings for any change in zoning or a GPA that would reduce the potential density of residential development.

Findings:

1. The reduction is consistent with the adopted General Plan, including the Housing Element
2. The remaining sites identified in the housing element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to Government Code Section 65584.

Historically, this type of request for a GPA has reflected the preference of local developers to construct single family homes in San Bernardino County. The County has carefully considered and will continue to carefully consider the ramifications of its actions when considering future planning applications which request a GPA to reduce the density of, or eliminate residential land use districts. Each application will be considered on its merits, but as housing prices continue to increase, and if the supply of new housing continues to lag behind the demand for housing, it may become more difficult to make the aforementioned findings in order to approve a down zoning GPA.

CONCLUSION:

Staff recommends adoption of the Draft Housing Element Update, as it meets all requirements prescribed by State law. The Draft Housing Element Update was submitted to HCD for review on April 19, 2001. HCD responded to the County with a comment letter dated June 18, 2001. The draft document has been amended to address HCD's concerns, except for the RHNA issue. HCD has acknowledged that as of January 1, 2003, only 4,514 units have been produced in the unincorporated area of the County since the beginning of the RHNA planning period (1998). This is only 28% of the Final RHNA allocation of 16,211, proving that the Final RHNA is a much more realistic housing construction target for 2005 than the original Draft RHNA allocation of 43,668. Therefore, staff recommends that the Updated Housing Element be adopted and submitted to HCD for certification as soon as possible.

ENVIRONMENTAL DETERMINATION:

Staff recommends that a Negative Declaration be adopted for this proposal. An Initial Study has been prepared, and no potentially significant effects on the environment were identified. The Initial Study/Proposed Negative Declaration was distributed previously for public review and to the Planning Commission with the Draft Housing Element Update.

FINDINGS:

1. The proposed Update of the County Housing Element is in the public interest.
2. The proposed Update of the County Housing Element does not conflict with the provisions of the County Development Code.
3. The proposed Update of the County Housing Element substantially complies with the provisions of California Government Code Sections 65580 – 65589.8, including all content requirements and specified procedures. Consistent with the statewide housing goal of decent housing and a suitable living environment for every Californian, the Draft Housing Element Update assesses existing and projected housing needs, identifies adequate sites to accommodate projected needs, and states goals, quantified objectives and implementation plans to improve, preserve and promote development of decent affordable housing for all income levels.
4. The proposed Update of the County Housing Element will not have a significant adverse effect on the environment.
5. The Negative Declaration reflects the County's independent judgement and analysis.

RECOMMENDATION:

Staff recommends that the Planning Commission make the following recommendations to the Board of Supervisors:

- A. ADOPT the proposed Update of the Housing Element;
- B. ADOPT the findings as contained in the staff report;
- C. ADOPT a Negative Declaration;
- D. FILE a Notice of Determination.

ATTACHMENTS (Distributed Previously):

Housing Element Update 2000-2005

Initial Study dated 3-18-03

June 18, 2001 Letter from HCD